

LISA L. RUSSELL
Deputy Assistant Attorney General
U.S. Department of Justice
Environment & Natural Resources Division

EMMA HAMILTON, Trial Attorney
CA Bar No. 325360
Natural Resources Section
201 Third Street, N.W., Suite 900
Albuquerque, New Mexico 87102
Telephone: (202) 305-5689
Email: emma.hamilton@usdoj.gov

TAYLOR A. MAYHALL, Trial Attorney
MN Bar No. 0400172
Wildlife & Marine Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 598-3796
Email: taylor.mayhall@usdoj.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Center for Biological Diversity;)
Chiricahua Regional Council; Natural)
Allies; Wild Arizona; and)
Conservation CATalyst,)

Plaintiffs,)

v.)

U.S. Forest Service; Michiko Martin,)
Regional Forester of the U.S. Forest)
Service Southwestern Region; U.S.)
Fish and Wildlife Service; and Amy)
Leuders, Regional Director of the U.S.)
Fish and Wildlife Service Southwest)
Region,)

Defendants.)

Case No.: 4:24-cv-405-RM

**DEFENDANTS' ANSWER
TO PLAINTIFFS' COMPLAINT,
ECF NO. 1**

PREFATORY NOTE

Plaintiffs’ claims are reviewable, if at all, in accordance with the judicial review provisions of the Administrative Procedure Act (“APA”), 5 U.S.C. § 706. Under the APA, the Court is not a fact finder. Rather, this Court’s role is closer to that of an appellate tribunal, reviewing the administrative records that were before the federal agencies at the time they made the challenged decisions to determine whether those administrative records support the agencies’ decisions or whether the agencies’ decisions are arbitrary, capricious, or otherwise contrary to law. 5 U.S.C. § 706; *Fla. Power & Light Co. v. Lorion*, 470 U.S. 729 (1985). This standard of review is “highly deferential” to the subject matter expertise of the agencies Congress has entrusted with primary jurisdiction over federal lands. *San Luis & Delta-Mendota Water Auth. v. Jewell*, 747 F.3d 581, 601 (9th Cir. 2014). And the Ninth Circuit has repeatedly instructed that the scope of judicial review of agency action is limited to the administrative record. *See, e.g., Lands Council v. Powell*, 395 F.3d 1019 (9th Cir. 2005); *Northcoast Env’t Ctr. v. Glickman*, 136 F.3d 660, 665 (9th Cir. 1998).

Accordingly, judicial review of federal agency action is a unique procedure, different in both nature and scope from the procedures used to resolve other civil actions within the original jurisdiction of the federal district courts. *See Olenhouse v. Commodity Credit Corp.*, 42 F.3d 1560, 1579 (10th Cir. 1994) (stating that a “complaint” was not the appropriate vehicle for initiating judicial review under the APA). Nonetheless, as a matter of judicial efficiency and consistent with Federal Rules of Civil Procedure 8(b) and 15(a), Defendants Michiko Martin, in her official capacity as Regional Forester for the United States Forest Service (“USFS”) Southwestern Region, the United States Forest Service (“Forest Service”), Amy Lueders, in her official capacity at Regional Director of the U.S. Fish and Wildlife Service Southwest Region, and the United States Fish and Wildlife Service (“FWS”) submit the following “Answer” construing Plaintiffs’ August 19, 2024 “Complaint,” (ECF No. 1) as a petition for review of agency action challenging the

1 approval and authorization to construct three roads for the Chiricahua Public Access
 2 Project (“the Project”) in the Chiricahua Ecosystem Management Area (“Chiricahua
 3 EMA”) within the Coronado National Forest (“Forest”), without waiving any defense or
 4 position that Defendants may have pursuant to the APA.

5 The numbered paragraphs of this Answer correspond to the numbered paragraphs
 6 of the Complaint. Where a sentence in the Complaint is followed by a citation, this
 7 Answer treats the citation as part of the preceding sentence.

8 **“I. INTRODUCTION”**¹

9 1. Defendants admit that on September 19, 2023, an officer of the USFS
 10 signed a Decision Notice (“DN”) authorizing the Project. Defendants admit that the
 11 Project includes road construction at three locations within the Chiricahua EMA on the
 12 Forest. Defendants also aver that one section of the Project (Horseshoe Canyon) is
 13 already open to public motor vehicle traffic. Defendants deny the remainder of the
 14 allegations in Paragraph 1.

15 2. Defendants admit that the action area analyzed in the Biological
 16 Assessment (“BA”) for potential noise and visual disturbances to wildlife included the
 17 300-foot dispersed camping corridor plus a 0.25-mile buffer along the affected road
 18 segments for a total of 10,504 acres, but deny the remaining allegations in the first
 19 sentence of Paragraph 2. Defendants admit that the road into John Long Canyon has been
 20 closed to public motor vehicle traffic for approximately 37 years, but lack knowledge or
 21 information sufficient to form a belief about the truth of the remaining allegations in the
 22 second sentence of Paragraph 2, and on this basis deny the allegations. To the extent a
 23 response is required, Federal Defendants deny any allegations inconsistent with the

24
 25 ¹ The section headings and subheadings used in this Answer follow the headings and
 26 subheadings use in Plaintiffs’ Complaint and are included solely for the purpose of
 27 organizational convenience in matching the answers provided herein with the allegations
 made in the Complaint. The headings are not part of Defendants’ responses to the
 allegations.

1 Administrative Record and the federal agencies' determinations.

2 3. Defendants lack knowledge or information sufficient to form a belief about
3 the truth of the allegations in the first and second sentences of Paragraph 3, and on this
4 basis deny the allegations. To the extent a response is required, Defendants deny any
5 allegations inconsistent with the Administrative Record and the federal agencies'
6 determinations. Defendants admit the allegations in the third sentence of Paragraph 3.

7 4. Defendants admit that the USFS made a finding of no significant impact for
8 the Project. Defendants deny the remaining allegations in Paragraph 4.

9 5. Defendants admit that the USFS made a finding of no significant impact for
10 the Project. Defendants deny the remaining allegations in Paragraph 5.

11 6. The allegations in Paragraph 6 constitute conclusions of law, and thus no
12 response is required. To the extent a response is required, Defendants deny the
13 allegations and any violation of law.

14 7. Defendants admit that the Forest Service relied on the Biological Opinion
15 ("BiOp") for the Project, among other documents. Defendants deny the remaining
16 allegations in Paragraph 7 .

17 8. The allegations in Paragraph 8 constitute conclusions of law, and thus no
18 response is required. To the extent a response is required, Defendants deny the
19 allegations and any violation of law.

20 9. The allegations in Paragraph 9 constitute conclusions of law, and thus no
21 response is required. To the extent a response is required, Defendants deny the
22 allegations and any violation of law.

23 10. The allegations in Paragraph 10 constitute conclusions of law, and thus no
24 response is required. To the extent a response is required, Defendants deny the
25 allegations and any violation of law.

26 11. Defendants deny the allegations in the first sentence of Paragraph 11. The
27 allegations in the second sentence of Paragraph 11 constitute Plaintiffs' characterization

1 of this action to which no response is required, and Defendants deny that Plaintiffs are
2 entitled to their requested relief or any relief whatsoever.

3 **“II. JURISDICTION AND VENUE”**

4 12. The allegations in Paragraph 12 constitute conclusions of law concerning
5 jurisdiction, which require no response. To the extent a response is required, Defendants
6 deny any allegations contrary to the plain language, context, and meaning of the
7 referenced statutes.

8 13. The allegations in Paragraph 13 constitute conclusions of law concerning
9 jurisdiction and justiciability, which require no response. To the extent a response is
10 required, Defendants deny any allegations contrary to the plain language, context, and
11 meaning of the referenced statutes.

12 14. Defendants admit that Plaintiffs submitted comments on the Environmental
13 Assessment (“EA”) for the Project during the public comment period, objected to the
14 DN for the Project, and provided 60 days’ notice of intent to sue. The remaining
15 allegations in Paragraph 14 contain conclusions of law which require no response. To the
16 extent a response is required, the allegations are denied.

17 15. The allegations in Paragraph 15 constitute conclusions of law regarding
18 venue, which require no response. To the extent a response is required, Defendants deny
19 any allegations contrary to the plain language, context, and meaning of the referenced
20 statute.

21 **“III. PARTIES”**

22 16. Defendants lack knowledge or information sufficient to form a belief about
23 the truth of the allegations in the first, second, third, and sixth sentences of Paragraph 16,
24 and, on that basis, deny the allegations. As to the fourth sentence of Paragraph 16,
25 Defendants admit that a member of the Center petitioned for the Mexican spotted owl to
26 be listed under the ESA in 1989, a final rule listing the species as threatened was
27 published in 1991, and following litigation by the Center, critical habitat designations

1 were made for the species in 1995 and 2001. Defendants deny the remaining allegations
2 in the fourth sentence of Paragraph 16. Defendants deny the allegations in the fifth
3 sentence of Paragraph 16.

4 17. Defendants lack knowledge or information sufficient to form a belief about
5 the truth of the allegations in the first, second, third, and fifth sentences of Paragraph 17,
6 and, on that basis, deny the allegations. Defendants admit the allegations in the fourth
7 sentence of Paragraph 17.

8 18. Defendants lack knowledge or information sufficient to form a belief about
9 the truth of the allegations in the first, second, third, fourth, fifth, sixth, seventh, eighth,
10 and tenth sentences of Paragraph 18, and, on that basis, deny the allegations. Defendants
11 admit the allegations in the ninth sentence of Paragraph 18.

12 19. Defendants lack knowledge or information sufficient to form a belief about
13 the truth of the allegations in the first, second, third, fifth, sixth, and ninth sentences of
14 Paragraph 19, and, on that basis, deny the allegations. Defendants admit that Natural
15 Allies was involved in an advisory capacity and provided input during the Forest's Travel
16 Management Rule development process. Defendants deny the remaining allegations in
17 the fourth sentence of Paragraph 19. Defendants admit the allegations in the seventh and
18 eighth sentences of Paragraph 19.

19 20. Defendants lack knowledge or information sufficient to form a belief about
20 the truth of the allegations in the first, second, third, fourth, fifth, sixth, and eighth
21 sentences of Paragraph 20, and, on that basis, deny the allegations. Defendants admit the
22 allegations in the seventh sentence of Paragraph 20.

23 21. Defendants lack knowledge or information sufficient to form a belief about
24 the truth of the allegations in the first, second, third, fourth, fifth, sixth, and eighth
25 sentences of Paragraph 21, and, on that basis, deny the allegations. Defendants admit the
26 allegations in the seventh sentence of Paragraph 21.

27 22. Defendants deny the allegations in Paragraph 22.

23. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23, and, on that basis, deny the allegations.

24. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 24, and, on that basis, deny the allegations.

25. The allegations in Paragraph 25 constitute conclusions of law which require no response. To the extent a response is required, Defendants deny the allegations and any violation of law.

26. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 26 and, on that basis, deny the allegations.

27. The allegations in Paragraph 27 constitute conclusions of law which require no response. To the extent a response is required, Defendants deny the allegations.

28. Defendants admit the allegations in Paragraph 28.

29. Defendants admit the allegations in Paragraph 29.

30. Defendants admit the allegations in Paragraph 30.

31. Defendants admit the allegations in Paragraph 31.

“IV. LEGAL FRAMEWORK”

“The National Environmental Policy Act (‘NEPA’)”

32. The allegations in Paragraph 32 purport to quote from and characterize NEPA and its implementing regulations, which speak for themselves, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of NEPA and its implementing regulations.

33. The allegations in Paragraph 33 purport to quote from and characterize NEPA and its implementing regulations, which speak for themselves, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of NEPA and its implementing regulations.

1 34. The allegations in Paragraph 34 purport to quote from and characterize the
2 regulations implementing NEPA, which speak for themselves, and thus no response is
3 required. To the extent a response is required, Defendants deny any allegations contrary
4 to the plain language, context, and meaning of NEPA and its implementing regulations.

5 35. The allegations in Paragraph 35 purport to quote from and characterize the
6 regulations implementing NEPA, which speak for themselves, and thus no response is
7 required. To the extent a response is required, Defendants deny any allegations contrary
8 to the plain language, context, and meaning of those regulations.

9 36. The allegations in Paragraph 36 purport to characterize the regulations
10 implementing NEPA, which speak for themselves, and thus no response is required. To
11 the extent a response is required, Defendants deny any allegations contrary to the plain
12 language, context, and meaning of those regulations.

13 37. The allegations in Paragraph 37 purport to quote from and characterize the
14 regulations implementing NEPA, which speak for themselves, and thus no response is
15 required. To the extent a response is required, Defendants deny any allegations contrary
16 to the plain language, context, and meaning of those regulations.

17 38. The allegations in Paragraph 38 purport to quote from and characterize the
18 regulations implementing NEPA, which speak for themselves, and thus no response is
19 required. To the extent a response is required, Defendants deny any allegations contrary
20 to the plain language, context, and meaning of those regulations.

21 39. The allegations in Paragraph 39 purport to quote from and characterize
22 NEPA and its implementing regulations, which speak for themselves, and thus no
23 response is required. To the extent a response is required, Defendants deny any
24 allegations contrary to the plain language, context, and meaning of NEPA and its
25 implementing regulations.

26 40. The allegations in Paragraph 40 purport to quote from and characterize
27 NEPA and its implementing regulations, which speak for themselves, and thus no

1 response is required. To the extent a response is required, Defendants deny any
2 allegations contrary to the plain language, context, and meaning of NEPA and its
3 implementing regulations.

4 41. The allegations in Paragraph 41 purport to quote from and characterize the
5 regulations implementing NEPA, which speak for themselves, and thus no response is
6 required. To the extent a response is required, Defendants deny any allegations contrary
7 to the plain language, context, and meaning of those regulations.

8 **“The Endangered Species Act (‘ESA’)”**

9 42. The allegations in Paragraph 42 purport to quote from and characterize the
10 ESA, which speaks for itself, and thus no response is required. To the extent a response is
11 required, Defendants deny any allegations contrary to the plain language, context, and
12 meaning of the ESA.

13 43. The allegations in Paragraph 43 purport to characterize the ESA’s
14 implementing regulations, which speak for themselves, and thus no response is required.
15 To the extent a response is required, Defendants deny any allegations contrary to the
16 plain language, context, and meaning of those regulations.

17 44. The allegations in Paragraph 44 purport to quote from and characterize the
18 ESA, which speaks for itself, and thus no response is required. To the extent a response is
19 required, Defendants deny any allegations contrary to the plain language, context, and
20 meaning of the ESA.

21 45. The allegations in Paragraph 45 purport to characterize the ESA, which
22 speaks for itself, and thus no response is required. To the extent a response is required,
23 Defendants deny any allegations contrary to the plain language, context, and meaning of
24 the ESA.

25 46. The allegations in Paragraph 46 purport to quote from and characterize the
26 ESA, which speaks for itself, and thus no response is required. To the extent a response is
27 required, Defendants deny any allegations contrary to the plain language, context, and

1 meaning of the ESA.

2 47. The allegations in Paragraph 47 purport to characterize the ESA's
3 implementing regulations, which speak for themselves, and thus no response is required.
4 To the extent a response is required, Defendants deny any allegations contrary to the
5 plain language, context, and meaning of those regulations.

6 48. The allegations in Paragraph 48 purport to quote from and characterize the
7 ESA and its implementing regulations, which speak for themselves, and thus no response
8 is required. To the extent a response is required, Defendants deny any allegations
9 contrary to the plain language, context, and meaning of the ESA and its implementing
10 regulations.

11 49. The allegations in Paragraph 49 purport to quote from and characterize the
12 ESA's implementing regulations, which speak for themselves, and thus no response is
13 required. To the extent a response is required, Defendants deny any allegations contrary
14 to the plain language, context, and meaning of those regulations.

15 50. The allegations in Paragraph 50 purport to quote from and characterize the
16 ESA and its implementing regulations, which speak for themselves, and thus no response
17 is required. To the extent a response is required, Defendants deny any allegations
18 contrary to the plain language, context, and meaning of the ESA and its implementing
19 regulations.

20 51. The allegations in Paragraph 51 purport to quote from and characterize the
21 ESA, which speaks for itself, and thus no response is required. To the extent a response is
22 required, Defendants deny any allegations contrary to the plain language, context, and
23 meaning of the ESA.

24 52. The allegations in Paragraph 52 purport to quote from and characterize the
25 ESA and its implementing regulations, which speak for themselves, and thus no response
26 is required. To the extent a response is required, Defendants deny any allegations
27 contrary to the plain language, context, and meaning of the ESA and its implementing

1 regulations.

2 53. The allegations in Paragraph 53 purport to characterize the ESA's
3 implementing regulations, which speaks for itself, and thus no response is required. To
4 the extent a response is required, Defendants deny any allegations contrary to the plain
5 language, context, and meaning of those regulations.

6 54. The allegation in Paragraph 54 purports to characterize the ESA, which
7 speaks for itself, and thus no response is required. To the extent a response is required,
8 Defendants deny any allegations contrary to the plain language, context, and meaning of
9 the ESA.

10 55. The allegations in Paragraph 55 purport to quote from and characterize the
11 ESA and its implementing regulations, which speak for themselves, and thus no response
12 is required. To the extent a response is required, Defendants deny any allegations
13 contrary to the plain language, context, and meaning of the ESA and its implementing
14 regulations.

15 56. The allegations in Paragraph 56 purport to quote from and characterize the
16 ESA, which speaks for itself, and thus no response is required. To the extent a response is
17 required, Defendants deny any allegations contrary to the plain language, context, and
18 meaning of the ESA.

19 **"The National Forest Management Act ('NFMA')"**

20 57. The allegations in Paragraph 57 purport to characterize NFMA and caselaw
21 interpreting the Act, which speak for themselves, and thus no response is required. To the
22 extent a response is required, Defendants deny any allegations contrary to the plain
23 language, context, and meaning of NFMA and the cited caselaw.

24 58. The allegations in Paragraph 58 purport to characterize NFMA, which
25 speaks for itself, and thus no response is required. To the extent a response is required,
26 Defendants deny any allegations contrary to the plain language, context, and meaning of
27 NFMA.

1 59. The allegations in Paragraph 59 purport to quote from and characterize
 2 NFMA and its implementing regulations, which speak for themselves, and thus no
 3 response is required. To the extent a response is required, Defendants deny any
 4 allegations contrary to the plain language, context, and meaning of NFMA and its
 5 implementing regulations.

6 60. The allegations in Paragraph 60 purport to quote from and characterize
 7 caselaw interpreting NFMA, which speaks for itself, and thus no response is required. To
 8 the extent a response is required, Defendants deny any allegations contrary to the plain
 9 language, context, and meaning of the cited caselaw.

10 **“The Administrative Procedure Act (‘APA’)”**

11 61. The allegations in Paragraph 61 purport to characterize the APA, which
 12 speaks for itself, and thus no response is required. To the extent a response is required,
 13 Defendants deny any allegations contrary to the plain language, context, and meaning of
 14 the APA.

15 62. The allegations in Paragraph 62 purport to quote from the APA, which
 16 speaks for itself, and thus no response is required. To the extent a response is required,
 17 Defendants deny any allegations contrary to the plain language, context, and meaning of
 18 the APA.

19 63. The allegations in Paragraph 63 purport to quote from and characterize the
 20 APA, which speaks for itself, and thus no response is required. To the extent a response
 21 is required, Defendants deny any allegations contrary to the plain language, context, and
 22 meaning of the APA.

23 **“V. PROCEDURAL BACKGROUND”**

24 64. Defendants admit that the Forest Service published a draft EA on October
 25 21, 2020. The remainder of the allegations in Paragraph 64 purport to characterize the
 26 contents of the draft EA, which speaks for itself, and thus no response is required. To the
 27 extent a response is required, Defendants deny any allegations contrary to the plain

1 language, context, and meaning of the draft EA.

2 65. Defendants admit the allegations in Paragraph 65.

3 66. Defendants admit the allegations in Paragraph 66.

4 67. Defendants admit that the BiOp for the Project was produced on February
5 23, 2022. The remainder of the allegations in Paragraph 67 purport to characterize the
6 contents of the BiOp, which speaks for itself, and thus no response is required. To the
7 extent a response is required, Defendants deny any allegations contrary to the plain
8 language, context, and meaning of the BiOp.

9 68. Defendants admit the allegations in Paragraph 68.

10 69. Defendants admit the allegations in Paragraph 69.

11 70. Defendants admit the allegations with the clarification that on September 1,
12 2023, the Forest Service sent a response to Plaintiff Center for Biological Diversity's
13 objections, not comments.

14 71. Defendants admit the allegations in Paragraph 71.

15 72. Defendants admit the allegations in Paragraph 72.

16 **"VI. FACTUAL BACKGROUND"**

17 **"The Chiricahua EMA"**

18 73. Defendants admit the allegations of Paragraph 73 with the clarification that
19 that the "284,621 acres" is in reference to the entire area of the Chiricahua EMA and not
20 to the Project area.

21 74. Defendants admit the allegations in Paragraph 74.

22 75. Defendants admit the allegations in Paragraph 75.

23 76. Defendants aver that the allegations in Paragraph 76 directly quote the 2018
24 Coronado National Forest Land and Resource Management Plan's ("Forest Plan")
25 description of desired conditions for Designated Wilderness Areas, which speaks for
26 itself, and thus no response is required. To the extent a response is required, Defendants
27 deny any allegations contrary to the plain language, context, and meaning of the 2018

1 Forest Plan. Defendants further aver that the Project does not fall within any Designated
2 Wilderness Area of the Chiricahua EMA.

3 77. The allegations in Paragraph 77 purport to quote from and characterize the
4 EA for the Project and the Forest Plan, which speak for themselves, and thus no response
5 is required. To the extent a response is required, Defendants deny any allegations
6 contrary to the plain language, context, and meaning of the EA and the Forest Plan.

7 78. The allegations in Paragraph 78 purport to quote from and characterize the
8 BA for the Project, which speaks for itself, and thus no response is required. To the
9 extent a response is required, Defendants deny any allegations contrary to the plain
10 language, context, and meaning of the BA.

11 79. The allegations in Paragraph 79 purport to characterize the Forest Plan,
12 which speaks for itself, and thus no response is required. To the extent a response is
13 required, Defendants deny any allegations contrary to the plain language, context, and
14 meaning of the Forest Plan.

15 80. The allegations in Paragraph 80 purport to quote from and characterize the
16 Forest Plan, which speaks for itself, and thus no response is required. To the extent a
17 response is required, Defendants deny any allegations contrary to the plain language,
18 context, and meaning of the Forest Plan.

19 81. The allegations in Paragraph 81 purport to quote from and characterize the
20 Forest Plan, which speaks for itself, and thus no response is required. To the extent a
21 response is required, Defendants deny any allegations contrary to the plain language,
22 context, and meaning of the Forest Plan.

23 **“The Project”**

24 82. The allegations in Paragraph 82 purport to quote from and characterize the
25 DN, which speaks for itself, and thus no response is required. To the extent a response is
26 required, Defendants deny any allegations contrary to the plain language, context, and
27 meaning of the DN.

1 83. The allegations in the first sentence of Paragraph 83 purport to quote from
2 and characterize the DN, which speaks for itself, and thus no response is required. To the
3 extent a response is required, Defendants deny any allegations contrary to the plain
4 language, context, and meaning of the DN. With respect to the second sentence of
5 Paragraph 83, Defendants admit that the Project area is currently accessible via non-
6 motorized access. Defendants lack the knowledge or information sufficient to form a
7 belief as to the truth of the remaining allegations in the second sentence of Paragraph 83,
8 and, on that basis, deny the allegations.

9 84. Defendants deny the allegation in Paragraph 84.

10 85. The allegations in Paragraph 85 purport to quote from and characterize the
11 EA for the Project, which speaks for itself, and thus no response is required. To the extent
12 a response is required, Defendants deny any allegations contrary to the plain language,
13 context, and meaning of the EA.

14 86. Defendants admit that the “action area” for the Project is 10,504 acres, but
15 deny the remaining allegations in Paragraph 86.

16 87. The allegations in Paragraph 87 purport to quote from and characterize the
17 EA for the Project, which speaks for itself, and thus no response is required. To the extent
18 a response is required, Defendants deny any allegations contrary to the plain language,
19 context, and meaning of the EA.

20 **“Jaguar (*Panthera onca*)”**

21 88. Defendants lack the knowledge or information sufficient to form a belief as
22 to the truth of the allegations in the first sentence of Paragraph 88, and on that basis deny
23 the allegations. Defendants admit the allegations in the second sentence of Paragraph 88.

24 89. Defendants deny the allegation in Paragraph 89.

25 90. The allegations in the first sentence of Paragraph 90 purport to quote from
26 and characterize an uncited FWS document, which speaks for itself, and thus no response
27 is required. To the extent a response is required, Defendants deny any allegations

1 contrary to the plain language, context, and meaning of the uncited document.

2 Defendants lack the knowledge or information sufficient to form a belief as to the truth of
3 the allegations in the second and third sentences of Paragraph 90, and on that basis deny
4 the allegations.

5 91. The allegations in Paragraph 91 purport to quote from and characterize the
6 BA, which speaks for itself, and thus no response is required. To the extent a response is
7 required, Defendants deny any allegations contrary to the plain language, context, and
8 meaning of the BA.

9 92. The allegations in Paragraph 92 purport to quote from and characterize the
10 relevant BiOp, which speaks for itself, and thus no response is required. To the extent a
11 response is required, Defendants deny any allegations contrary to the plain language,
12 context, and meaning of the BiOp.

13 93. Defendants deny that the Jaguar Recovery Team is “led” by FWS.
14 Defendants admit the remaining allegations in Paragraph 93.

15 94. The allegations in Paragraph 94 purport to quote from and characterize the
16 Jaguar Recovery Plan, which speaks for itself, and thus no response is required. To the
17 extent a response is required, Defendants deny any allegations contrary to the plain
18 language, context, and meaning of the Jaguar Recovery Plan.

19 95. The allegations in Paragraph 95 purport to quote from and characterize the
20 Jaguar Recovery Plan, which speaks for itself, and thus no response is required. To the
21 extent a response is required, Defendants deny any allegations contrary to the plain
22 language, context, and meaning of the Jaguar Recovery Plan.

23 96. The allegations in Paragraph 96 purport to quote from and characterize the
24 Jaguar Recovery Plan, which speaks for itself, and thus no response is required. To the
25 extent a response is required, Defendants deny any allegations contrary to the plain
26 language, context, and meaning of the Jaguar Recovery Plan.

27 97. The allegations in Paragraph 97 purport to quote from and characterize the

Jaguar Recovery Plan, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the Jaguar Recovery Plan.

98. The allegations in Paragraph 98 purport to quote from and characterize the Jaguar Recovery Plan, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the Jaguar Recovery Plan.

“Mexican Spotted Owl (*Strix occidentalis lucida*)”

99. Defendants admit the allegations in Paragraph 99.

100. Defendants admit the allegations in Paragraph 100.

101. Defendants admit the allegations in Paragraph 101 and aver that while adults can generally survive sixteen to seventeen years, survival of individual owls varies.

102. Defendants admit the allegations in Paragraph 102 and aver that in the original listing of Mexican Spotted owl, historical alteration of habitat as a result of timber-management and the continuation of those practices were cited as the primary threats to the species. The primary threat to the species in the United States has now transitioned to stand-replacing wildland fire.

103. Defendants admit the allegations in Paragraph 103.

104. The allegations in Paragraph 104 purport to characterize the Federal Register notice for the Final Designation of Critical Habitat for the Mexican Spotted Owl, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the Federal Register notice.

105. Defendants admit that Mexican spotted owl habitat exists in John Long Canyon but aver that John Long Canyon is already open to dispersed camping and incidental firewood use. Defendants deny the remaining allegation in the first sentence of Paragraph 105, including the allegation that John Long Canyon is being opened to

1 fuelwood collection. Defendants aver that North Fork of Pinery Canyon and Horseshoe
2 Canyon are currently open to seasonal permitted fuelwood collection, and admit that the
3 Project would open the 300-foot buffer area around the new segments to fuelwood
4 collection. Defendants deny the remaining allegations in the second sentence of
5 Paragraph 105, including the allegation that owl critical habitat exists in North Fork of
6 Pinery Canyon.

7 106. Defendants deny that the Mexican Spotted Owl Recovery Team is “led” by
8 FWS. Defendants admit the remaining allegations in Paragraph 106.

9 107. The allegations in Paragraph 107 purport to quote from and characterize the
10 Mexican Spotted Owl Recovery Plan (“Owl Recovery Plan”), which speaks for itself, and
11 thus no response is required. To the extent a response is required, Defendants deny any
12 allegations contrary to the plain language, context, and meaning of the Owl Recovery
13 Plan.

14 108. The allegations in Paragraph 108 purport to characterize the Owl Recovery
15 Plan, which speaks for itself, and thus no response is required. To the extent a response is
16 required, Defendants deny any allegations contrary to the plain language, context, and
17 meaning of the Owl Recovery Plan.

18 109. The allegations in Paragraph 109 purport to quote from and characterize the
19 BiOp, which speaks for itself, and thus no response is required. To the extent a response
20 is required, Defendants deny any allegations contrary to the plain language, context, and
21 meaning of the BiOp.

22 110. Defendants deny the allegations in Paragraph 110.

23 111. The allegations in Paragraph 111 purport to quote from and characterize the
24 BiOp, which speaks for itself, and thus no response is required. To the extent a response
25 is required, Defendants deny any allegations contrary to the plain language, context, and
26 meaning of the BiOp.

27 **“Sensitive Species”**

112. Defendants admit the allegations in Paragraph 112 but aver that not all sensitive species present in the Chiricahua EMA are present in the Project area.

113. Defendants admit that the species listed in paragraph 113 are Regional Forester's Sensitive Species.

"2022 Biological Opinion"

114. The allegations in the first and second sentences of Paragraph 114 purport to characterize the BA for the Project, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the BA. Defendants admit the allegations in the third and fourth sentences of Paragraph 114.

115. The allegations in Paragraph 115 purport to quote from and characterize the BiOp, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the BiOp.

116. The allegations in Paragraph 116 purport to quote from and characterize the BiOp, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the BiOp.

117. The allegations in Paragraph 117 purport to quote from and characterize the BiOp, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the BiOp.

118. The allegations in Paragraph 118 purport to quote from and characterize the BiOp, which speaks for itself, and thus no response is required. To the extent a response is required, Defendants deny any allegations contrary to the plain language, context, and meaning of the BiOp.

119. The allegations in Paragraph 119 purport to characterize the BiOp, which

1 speaks for itself, and thus no response is required. To the extent a response is required,
2 Defendants deny any allegations contrary to the plain language, context, and meaning of
3 the BiOp.

4 120. The allegations in Paragraph 120 purport to quote from and characterize the
5 BiOp, which speaks for itself, and thus no response is required. To the extent a response
6 is required, Defendants deny any allegations contrary to the plain language, context, and
7 meaning of the BiOp.

8 121. The allegations in Paragraph 121 purport to characterize the Incidental
9 Take Statement (“ITS”), which speaks for itself, and thus no response is required. To the
10 extent a response is required, Defendants deny any allegations contrary to the plain
11 language, context, and meaning of the ITS.

12 122. The allegations in Paragraph 122 purport to quote and characterize the ITS,
13 which speaks for itself, and thus no response is required. To the extent a response is
14 required, Defendants deny any allegations contrary to the plain language, context, and
15 meaning of the ITS.

16 **“VII. CLAIMS FOR RELIEF”**

17 **“FIRST CLAIM FOR RELIEF”**

18 **“Against Forest Service Defendants”**

19 **“Violations of NEPA and the APA”**

20 123. Defendants incorporate all preceding paragraphs set forth in this Answer as
21 if set forth in full here.

22 124. The allegations in Paragraph 124 constitute conclusions of law and purport
23 to quote from and characterize NEPA, which speaks for itself, and thus no response is
24 required. To the extent a response is required, Defendants deny any allegations contrary
25 to the plain language, context, and meaning of NEPA and any violation of law.

26 125. The allegations in Paragraph 125 constitute conclusions of law, and thus no
27 response is required. To the extent a response is required, Defendants deny the

1 allegations and any violation of law.

2 126. Defendants deny the allegations in the first and second sentences of
3 Paragraph 126. The allegation in the third sentence of Paragraph 126 purports to
4 characterize the Owl Recovery Plan, which speaks for itself, and thus no response is
5 required. To the extent a response is required, Defendants deny any allegations contrary
6 to the plain language, context, and meaning of the Owl Recovery Plan. The allegations in
7 the fourth, fifth, and sixth sentences of Paragraph 126 purport to characterize the EA,
8 which speaks for itself, and thus no response is required. To the extent a response is
9 required, Defendants deny any allegations contrary to the plain language, context, and
10 meaning of the EA and any violation of law.

11 127. The allegations in Paragraph 127 purport to characterize the EA, which
12 speaks for itself, and thus no response is required. To the extent a response is required,
13 Defendants deny any allegations contrary to the plain language, context, and meaning of
14 the EA.

15 128. The allegations in Paragraph 128 constitute conclusions of law and purport
16 to characterize the EA, which speaks for itself, and thus no response is required. To the
17 extent a response is required, Defendants deny any allegations contrary to the plain
18 language, context, and meaning of the EA and any violation of law.

19 129. The allegations in Paragraph 129 constitute conclusions of law and purport
20 to characterize the EA, Biological Evaluation, BA, and Forest Plan, which speak for
21 themselves, and thus no response is required. To the extent a response is required,
22 Defendants deny any allegations contrary to the plain language, context, and meaning of
23 the EA, Biological Evaluation, BA, and Forest Plan and any violation of law.

24 130. The allegations in Paragraph 130 constitute conclusions of law and purport
25 to characterize the DN, Finding of No Significant Impact (“FONSI”), EA, and Jaguar
26 Recovery Plan, which speak for themselves, and thus no response is required. To the
27 extent a response is required, Defendants deny any allegations contrary to the plain

1 language, context, and meaning of the DN, FONSI, EA, and Jaguar Recovery Plan and
2 any violation of law.

3 131. The allegations in Paragraph 131 constitute conclusions of law and purport
4 to characterize the EA and DN, which speak for themselves, and thus no response is
5 required. To the extent a response is required, Defendants deny any allegations contrary
6 to the plain language, context, and meaning of the EA and DN and any violation of law.

7 132. The allegations in Paragraph 132 constitute conclusions of law, and thus no
8 response is required. To the extent a response is required, Defendants deny the
9 allegations and any violation of law.

10 **“SECOND CLAIM FOR RELIEF”**

11 **“Against FWS Defendants”**

12 **“Violations of the ESA and the APA”**

13 133. Defendants incorporate all preceding paragraphs set forth in this Answer as
14 if set forth in full here.

15 134. Defendants deny the allegations in Paragraph 134.

16 135. The allegations in Paragraph 135 purport to quote from and characterize the
17 ESA, which speaks for itself, and thus no response is required. To the extent a response is
18 required, Defendants deny any allegations contrary to the plain language, context, and
19 meaning of the ESA.

20 136. The allegations in Paragraph 136 purport to characterize the ESA’s
21 implementing regulations, which speak for themselves, and thus no response is required.
22 To the extent a response is required, Defendants deny any allegations contrary to the
23 plain language, context, and meaning of those regulations.

24 137. The allegations in Paragraph 137 constitute conclusions of law and purport
25 to characterize the BiOp and the ITS, which speak for themselves, and thus no response
26 is required. To the extent a response is required, Defendants deny any allegations
27 contrary to the plain language, context, and meaning of the BiOp and ITS and any

1 violation of law.

2 138. The allegations in Paragraph 138 constitute conclusions of law and purport
3 to quote and characterize the APA, and thus no response is required. To the extent a
4 response is required, Defendants deny any allegations contrary to the plain language,
5 context, and meaning of the APA and any violation of law.

6 139. The allegations in Paragraph 139 purport to characterize the ESA's
7 implementing regulations, which speak for themselves, and thus no response is required.
8 Defendants deny any allegations contrary to the plain language, context, and meaning of
9 those regulations.

10 140. The allegations in Paragraph 140 purport to quote from and characterize the
11 ESA and its implementing regulations, which speak for themselves, and thus no response
12 is required. To the extent a response is required, Defendants deny any allegations
13 contrary to the plain language, context, and meaning of the ESA and its implementing
14 regulations.

15 141. The allegations in Paragraph 141 constitute conclusions of law, and thus no
16 response is required. To the extent a response is required, Defendants deny the
17 allegations and any violation of law.

18 142. The allegations in Paragraph 142 constitute conclusions of law, and thus no
19 response is required. To the extent a response is required, Defendants deny the
20 allegations and any violation of law.

21 143. The allegations in Paragraph 143 constitute conclusions of law and purport
22 to quote and characterize the BiOp and Jaguar Recovery Plan, which speak for
23 themselves, and thus no response is required. To the extent a response is required,
24 Defendants deny any allegations contrary to the plain language, context, and meaning of
25 the BiOp and Jaguar Recovery Plan and any violation of law.

26 144. The allegations in Paragraph 144 constitute conclusions of law, and thus no
27 response is required. To the extent a response is required, Defendants deny the

1 allegations and any violation of law.

2 145. The allegations in Paragraph 145 constitute conclusions of law, and thus no
3 response is required. To the extent a response is required, Defendants deny the
4 allegations and any violation of law.

5 146. The allegations in Paragraph 146 constitute conclusions of law and purport
6 to quote and characterize the BiOp, which speaks for itself, and thus no response is
7 required. To the extent a response is required, Defendants deny any allegations contrary
8 to the plain language, context, and meaning of the BiOp and any violation of law.

9 147. The allegations in Paragraph 147 constitute conclusions of law and purport
10 to quote and characterize the BA, which speaks for itself, and thus no response is
11 required. To the extent a response is required, Defendants deny any allegations contrary
12 to the plain language, context, and meaning of the BA and any violation of law.

13 148. Defendants lack the knowledge or information sufficient to form a belief as
14 to the truth of the allegations in Paragraph 148, and on that basis deny the allegations.

15 149. Defendants lack the knowledge or information sufficient to form a belief as
16 to the truth of the allegations in Paragraph 149, and on that basis deny the allegations, but
17 aver that the Project does not authorize “increased hunting,” which is authorized by the
18 State of Arizona.

19 150. Defendants admit that the hunting season for mountain lions in Arizona set
20 by the State is from August to May. Defendants deny the remaining allegations in
21 Paragraph 150.

22 151. The allegations in Paragraph 151 constitute conclusions of law and purport
23 to quote and characterize the BiOp and ITS, which speak for themselves, and thus no
24 response is required. To the extent a response is required, Defendants deny any
25 allegations contrary to the plain language, context, and meaning of the BiOp and ITS and
26 any violation of law.

27 152. The allegations in Paragraph 152 constitute conclusions of law, and thus no

1 response is required. To the extent a response is required, Defendants deny the
2 allegations and any violation of law.

3 153. Defendants deny the allegations in the first sentence of Paragraph 153. The
4 allegations in the second sentence of Paragraph 153 purport to characterize the Owl
5 Recovery Plan, which speaks for itself, and thus no response is required. To the extent a
6 response is required, Defendants deny any allegations contrary to the plain language,
7 context, and meaning of the Owl Recovery Plan.

8 154. The allegations in Paragraph 154 constitute conclusions of law, and thus no
9 response is required. To the extent a response is required, Defendants deny the
10 allegations and any violation of law.

11 155. The allegations in Paragraph 155 constitute conclusions of law, and thus no
12 response is required. To the extent a response is required, Defendants deny the
13 allegations and any violation of law.

14 156. Defendants deny the allegations in Paragraph 156.

15 157. Defendants deny the allegations in the first sentence of Paragraph 157, and
16 aver that the primary reason Mexican spotted owls may utilize the John Long Canyon
17 areas is because it contains nest/roost habitat and foraging habitat. Defendants admit the
18 allegations in the second sentence of Paragraph 157, with clarifications that: (a) the
19 Project will only restore *motorized* access to the area, since John Long Canyon is already
20 publicly accessible by non-motorized means; (b) any increased activity is anticipated to
21 be minimal; and (c) the Project will include the installation of gates to manage access and
22 protect species.

23 158. Defendants admit that the Project will provide motorized access to John
24 Long Canyon, including approximately thirty-eight acres of Mexican spotted owl critical
25 habitat, but aver that non-motorized access for camping and incidental fuelwood
26 collection and use is already permitted in the area. Defendants deny any remaining
27 allegations in Paragraph 158.

1 159. Defendants admit the allegations in Paragraph 159 but aver that non-
2 motorized access for camping and fuelwood collection and use is already permitted in
3 North Fork of Pinery Canyon.

4 160. Defendants admit the allegations in Paragraph 160 but aver that the Project
5 does not affect nest or roost habitat for spotted owls, and ground-based noise disturbance
6 would occur outside the breeding season.

7 161. Defendants admit the allegations in Paragraph 161 but aver that the primary
8 threat to Mexican spotted owls is habitat destruction or modification due to high-
9 intensity, stand-replacing wildfire.

10 162. The allegations in Paragraph 162 constitute conclusions of law and purport
11 to quote from and characterize the BiOp, which speaks for itself, and thus no response is
12 required. To the extent a response is required, Defendants deny any allegations contrary
13 to the plain language, context, and meaning of the BiOp and any violation of law.

14 163. Defendants deny the allegations in the first and second sentences of
15 Paragraph 163. Defendants admit that the Project will provide motorized access to John
16 Long Canyon, including approximately thirty-eight acres of Mexican spotted owl critical
17 habitat, but aver that non-motorized access for camping and incidental fuelwood
18 collection and use is already permitted in the area and deny the remaining allegations in
19 the third sentence of Paragraph 163.

20 164. Defendants deny the allegations in the first sentence of Paragraph 164. The
21 allegations in the second sentence of Paragraph 164 purport to characterize the BiOp,
22 which speaks for itself, and thus no response is required. To the extent a response is
23 required, Defendants deny any allegations contrary to the plain language, context, and
24 meaning of the BiOp.

25 165. The allegations in Paragraph 165 constitute conclusions of law, and thus no
26 response is required. To the extent a response is required, Defendants deny the
27 allegations and any violation of law.

1 166. The allegations in Paragraph 166 constitute conclusions of law, and thus no
2 response is required. To the extent a response is required, Defendants deny the
3 allegations and any violation of law.

4 167. The allegations in Paragraph 167 constitute conclusions of law, and thus no
5 response is required. To the extent a response is required, Defendants deny the
6 allegations and any violation of law.

7 **“THIRD CLAIM FOR RELIEF”**
8 **“Against Forest Service Defendants”**
9 **“Violations of ESA Section 7 and the APA”**

10 168. Defendants incorporate all preceding paragraphs set forth in this Answer as
11 if set forth in full here.

12 169. The allegations in Paragraph 169 constitute conclusions of law, and thus no
13 response is required. To the extent a response is required, Defendants deny the
14 allegations and any violation of law.

15 170. The allegations in Paragraph 170 purport to characterize the ESA, which
16 speaks for itself, and thus no response is required. To the extent a response is required,
17 Defendants deny any allegations contrary to the plain language, context, and meaning of
18 the ESA.

19 171. The allegations in Paragraph 171 purport to quote from and characterize the
20 ESA and its implementing regulations, which speak for themselves, and thus no response
21 is required. To the extent a response is required, Defendants deny any allegations
22 contrary to the plain language, context, and meaning of the ESA and its implementing
23 regulations.

24 172. The allegations in Paragraph 172 constitute conclusions of law, and thus no
25 response is required. To the extent a response is required, Defendants deny the
26 allegations and any violation of law.

27 173. The allegations in Paragraph 173 constitute conclusions of law and purport

1 to quote and characterize the APA, which speaks for itself, and thus no response is
2 required. To the extent a response is required, Defendants deny any allegations contrary
3 to the plain language, context, and meaning of the APA and any violation of law.

4 174. The allegations in Paragraph 174 constitute conclusions of law, and thus no
5 response is required. To the extent a response is required, Defendants deny the
6 allegations and any violation of law.

7 175. The allegations in Paragraph 175 constitute conclusions of law, and thus no
8 response is required. To the extent a response is required, Defendants deny the
9 allegations and any violation of law.

10 176. The allegations in Paragraph 176 purport to characterize the BA, which
11 speaks for itself, and thus no response is required. To the extent a response is required,
12 Defendants deny any allegations contrary to the plain language, context, and meaning of
13 the BA.

14 177. Defendants deny the allegations in Paragraph 177.

15 178. The allegations in Paragraph 178 constitute conclusions of law, and thus no
16 response is required. To the extent a response is required, Defendants deny the
17 allegations and any violation of law.

18 179. The allegations in Paragraph 179 constitute conclusions of law, and thus no
19 response is required. To the extent a response is required, Defendants deny the
20 allegations and any violation of law.

21 180. The allegations in Paragraph 180 constitute conclusions of law, and thus no
22 response is required. To the extent a response is required, Defendants deny the
23 allegations and any violation of law.

24 181. The allegations in Paragraph 181 constitute conclusions of law and purport
25 to quote and characterize a Department of the Interior memorandum, which speaks for
26 itself, and thus no response is required. To the extent a response is required, Defendants
27 deny any allegations contrary to the plain language, context, and meaning of the

1 referenced memorandum.

2 182. Defendants deny the allegations in the first sentence of Paragraph 182. The
3 remaining allegations in Paragraph 182 purport to characterize the Forest Plan, which
4 speaks for itself, and thus no response is required. To the extent a response is required,
5 Defendants deny any allegations contrary to the plain language, context, and meaning of
6 the Forest Plan.

7 183. The allegations in Paragraph 183 purport to quote from and characterize the
8 Forest Plan, which speaks for itself, and thus no response is required. To the extent a
9 response is required, Defendants deny any allegations contrary to the plain language,
10 context, and meaning of the Forest Plan.

11 184. The allegations in Paragraph 184 constitute conclusions of law, and thus no
12 response is required. To the extent a response is required, Defendants deny the
13 allegations and any violation of law.

14 185. Defendants deny the allegations in the first sentence of Paragraph 185. The
15 allegations in the second and third sentences of Paragraph 185 constitute conclusions of
16 law, and thus no response is required. To the extent a response is required, Defendants
17 deny the allegations and any violation of law.

18 186. The allegations in Paragraph 186 constitute conclusions of law, and thus no
19 response is required. To the extent a response is required, Defendants deny the
20 allegations and any violation of law.

21 187. The allegations in Paragraph 187 constitute conclusions of law, and thus no
22 response is required. To the extent a response is required, Defendants deny the
23 allegations and any violation of law.

24 **“FOURTH CLAIM FOR RELIEF”**

25 **“Against Forest Service Defendants”**

26 **“Violations of NFMA, the Coronado Forest Plan, and the APA”**

27 188. Defendants incorporate all preceding paragraphs set forth in this Answer as

1 if set forth in full here.

2 189. The allegations in Paragraph 189 constitute conclusions of law and purport
3 to characterize NFMA and its implementing regulations, which speak for themselves, and
4 thus no response is required. To the extent a response is required, Defendants deny any
5 allegations contrary to the plain language, context, and meaning of NFMA and its
6 implementing regulations and any violation of law.

7 190. The allegations in Paragraph 190 constitute conclusions of law and purport
8 to quote from and characterize the Forest Plan, the Jaguar Recovery Plan, and the Owl
9 Recovery Plan, which speak for themselves, and thus no response is required. To the
10 extent a response is required, Defendants deny any allegations contrary to the plain
11 language, context, and meaning of the Forest Plan, Jaguar Recovery Plan, and Owl
12 Recovery Plan and any violation of law.

13 191. The allegations in Paragraph 191 constitute conclusions of law and purport
14 to quote from and characterize the Forest Plan and Project EA, which speak for
15 themselves, and thus no response is required. To the extent a response is required,
16 Defendants deny any allegations contrary to the plain language, context, and meaning of
17 the Forest Plan and EA and any violation of law.

18 192. The allegations in Paragraph 192 constitute conclusions of law and purport
19 to quote from and characterize the 2011 Transport Analysis Plan for the Chiricahua EMA
20 and the Biological Evaluation, which speak for themselves, and thus no response is
21 required. To the extent a response is required, Defendants deny any allegations contrary
22 to the plain language, context, and meaning of the 2011 Transport Analysis Plan and the
23 Biological Evaluation and any violation of law.

24 193. The allegations in Paragraph 193 constitute conclusions of law and purport
25 to quote from and characterize the Forest Plan and Project BA, which speak for
26 themselves, and thus no response is required. To the extent a response is required,
27 Defendants deny any allegations contrary to the plain language, context, and meaning of

1 the Forest Plan and BA and any violation of law.

2 194. The allegations in Paragraph 194 constitute conclusions of law and purport
3 to quote from and characterize the Forest Plan and Project BA, which speak for
4 themselves, and thus no response is required. To the extent a response is required,
5 Defendants deny any allegations contrary to the plain language, context, and meaning of
6 the Forest Plan and BA and any violation of law.

7 195. The allegations in Paragraph 195 constitute conclusions of law, and thus no
8 response is required. To the extent a response is required, Defendants deny the
9 allegations and any violation of law.

10 **“PRAYER FOR RELIEF”**

11 The remaining allegations set forth in the Complaint (pages 52-53) consist of
12 Plaintiffs’ prayers for relief, which require no response. To the extent a response is
13 required, Defendants deny any violation of law and deny that Plaintiffs are entitled to
14 their requested relief or any relief whatsoever.

15 **“GENERAL DENIAL”**

16 Defendants deny any and all allegations in the Complaint, whether express or
17 implied, that are not otherwise specifically admitted, denied, or qualified herein.

18 **“DEFENSES”**

19 1. Plaintiffs lack standing to raise some or all of the claims in the Complaint.

20 2. Plaintiffs fail to state a claim upon which relief may be granted for some or all
21 of the claims in the Complaint.

22 3. Plaintiffs have waived some or all of the claims in the Complaint.

23 4. Plaintiffs have failed to exhaust administrative remedies for some or all of the
24 claims in the Complaint.

1
2 Dated: February 3, 2025

Respectfully Submitted,

3 LISA L. RUSSELL
4 Deputy Assistant Attorney General
5 U.S. Department of Justice
6 Environment & Natural Resources Division

7 /s/ Emma L. Hamilton
8 EMMA L. HAMILTON, Trial Attorney
9 CA Bar No. 325360
10 Natural Resources Section
201 Third Street, NW, Suite 900
Albuquerque, New Mexico 87102
Email: emma.hamilton@usdoj.gov

11 TAYLOR A. MAYHALL, Trial Attorney
12 MN Bar. No. 0400172
13 Wildlife & Marine Resources Section
14 P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 598-3796
15 Email: taylor.mayhall@usdoj.gov

16 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2025, I filed the foregoing document electronically through the CM/ECF system, which caused all parties or counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Emma L. Hamilton

Emma L. Hamilton

U.S. Department of Justice